The Regents of the University of California

COMMITTEE ON OVERSIGHT OF THE DEPARTMENT OF ENERGY LABORATORIES

January 17, 2007

The Committee on Oversight of the Department of Energy Laboratories met on the above date at UCSF-Mission Bay Community Center, San Francisco.

Members present: Regents Blum, Dynes, Parsky, Pattiz, Preuss, and Schreiner; Advisory member Oakley

In attendance: Regents Coombs, De La Peña, Garamendi, Gould, Hopkinson, Kozberg, Lansing, Ruiz, and Varner, Regents-Designate Allen, Brewer, and Bugay, Acting Secretary Shaw, Provost Hume, Vice Presidents Foley and Hershman, Chancellors Birgeneau, Bishop, Córdova, Drake, and Yang, Acting Chancellors Blumenthal and Park, University Auditor Reed, and Recording Secretary Smith

The meeting convened at 12:15 p.m. with Committee Chair Pattiz presiding.

1. **APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING**

Upon motion duly made and seconded, the minutes of the meeting of November 16, 2006 were approved.

2. **STATUS OF COMPETITION AND OTHER MATTERS AT THE DEPARTMENT OF ENERGY LABORATORIES**

Vice President Foley stated that the proposal by the newly formed Lawrence Livermore National Security Limited Liability Company was submitted to the National Nuclear Security Administration (NNSA) on October 25, 2006. Oral presentations were given. He called attention to the fact that both Chairman Parsky and President Dynes participated in the oral presentations and conveyed the University's strong commitment to the government Source Evaluation Board.

NNSA is expected to complete its evaluation of proposals and may make an award for the Livermore management contract by early to mid-March. The only entities that have publicly announced their participation in the competition are a team headed by Northrup-Grumman and one by Tri-Valley CAREs. Recently Tri-Valley CAREs made public statements indicating that its proposal has been rejected in the preliminary stages of the review, and Vice President Foley has heard statements that Tri-Valley CAREs is protesting the decision. This is bound to have some impact on the review of the other proposals. He believes UC's proposal is very strong in that it brings together the scientific management and

operational strengths of the industrial partners and applies the strengths in a strategic manner to ensure that Livermore continues to excel and meet the mission set forth by the Department of Energy and the NNSA.

Vice President Foley stated that the Lawrence Berkeley National Laboratory Advisory Board met on December 18, 2006. In addition to this Board, the University has a Contract Assurance Council that focuses specifically on business and operations. The Advisory Board meets semi-annually, and the Assurance Council meets monthly. The intent is to uncover issues or problems before they happen, and to provide assets to fix problems that arise.

Vice President Foley recalled that, with regard to the Los Alamos Laboratory, there was a discovery in October 2006 that a subcontract employee moved controlled documents and electronic media from the Laboratory. The University has been working closely with the NNSA and other government agencies to ensure that appropriate actions are taken to anticipate and prevent future security breaches. It is also anticipated that there will be Congressional hearings on this issue, near the beginning of February 2007.

Vice President Foley concluded by stating that the University is extremely well served by Laboratory Directors Chu, Anastasio, and Miller.

3. **AUTHORIZATION TO APPROVE AND EXECUTE MODIFICATION TO THE DEPARTMENT OF ENERGY CONTRACT FOR THE LAWRENCE BERKELEY NATIONAL LABORATORY TO AMEND CLAUSES AND ADD NEW CLAUSES AS A RESULT OF CHANGES TO THE FEDERAL ACQUISITION REGULATIONS AND THE DEPARTMENT OF ENERGY ACQUISITION REGULATIONS**

The President recommended that he be authorized to execute a modification to the provisions of Lawrence Berkeley National Laboratory contract DEAC02-05CH11231 in order to add two new clauses and incorporate revisions to eight clauses.

It was recalled that from time to time, changes are necessary to reflect the ongoing agreement between the University and the Department of Energy (DOE). As a result of updates to the Federal Acquisition Regulations (FAR), DOE has requested the addition of two new H clauses, the updating of eight standard clauses in Section I of the LBNL prime contract, and the addition of two new Section I clauses.

Clause I.4 - FAR 52.203-6 Restrictions On Subcontractor Sales To The Government
The requirement to include this clause in all subcontracts over $100,000 is changed to the simplified acquisition threshold.

Clause I.10 - FAR 52.209-6 Protecting The Government's Interest When Subcontracting With Contractors Debarred, Suspended, Or Proposed For Debarment
The threshold is increased from $25,000 to $30,000.

Clause I.16 - FAR 52.219-9 Small Business Subcontracting Plan
The threshold for requiring subcontracting plans on subcontracts other than construction is increased from $500,000 to $550,000.

Clause I.26 – FAR 52.222-35 Equal Opportunity For Special Disabled Veterans, Veterans Of The Vietnam Era, And Other Eligible Veterans
The flowdown requirement is increased from subcontracts over $25,000 to contracts over $100,000.

Clause I.28 – FAR 52.222-37 Employment Reports On Special Disabled Veterans, Veterans Of The Vietnam Era, And Other Eligible Veterans
The flowdown requirement is increased from subcontracts over $25,000 to contracts over $100,000.

Clause I.50 – FAR 52.244-6 Subcontracts For Commercial Items
The threshold at which FAR 52.219-8 becomes applicable is increased from $500,000 to $550,000.

Clause I.91 – DEAR 970.5227-2 Rights In Data-Technology Transfer (Deviation – July 2006)
The deviation expressly allows contractors to establish copyright in contract software, using an Open Source form of license, whether the software originated under the contract or was modified under the contract from other software subject to an Open Source license.

Clause I.92 - DEAR 970.5227-3 Technology Transfer Mission (Deviation – July 2006)
The deviation provides for an efficient process for the contractor to coordinate prospective licensing with the U.S. Trade Representative.

New clauses

Clause H.46 - Energy Efficiency In Energy Consuming Products (July 2006)
Pending formal adoption of the FAR clause, this new clause implements Section 104 of the Energy Policy Act of 2005.

Clause I.118 - FAR 52.222-50 Combating Trafficking In Persons (April 2006)
This new clause implements 22 U.S.C. 7104 as amended by Public Law 108-193 and 109-64, and is required for all service contracts that are not commercial services.

As a result of the changes the table of contents for the LBNL contract will be revised accordingly.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board.

The meeting adjourned at 12:30 p.m.

Attest:

Acting Secretary